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IN MONROE, LA

FEB 25 2008

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

May
ROBERT H. SHEM WELL, CLERK
WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

ERNEST L. DIGGS, JR.

CIVIL ACTION NO. 07-1807

VERSUS

JUDGE ROBERT G. JAMES

CAPTAIN MIKE EMFINGER, ET AL

MAG. JUDGE KAREN L. HAYES

RULING

On October 29, 2007, Plaintiff Ernest L. Diggs, Jr. (“Diggs”), acting *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. On January 10, 2008, Magistrate Judge Karen L. Hayes issued a Report and Recommendation, recommending that Diggs’s petition be dismissed with prejudice for failing to state a claim upon which relief may be granted under 28 U.S.C. §§ 1915 and 1915A. A copy of this Report and Recommendation was forwarded to Diggs at the Franklin Parish Detention Center. The Franklin Parish Detention Center then forwarded the Report and Recommendation to the West Carroll Detention Center, his last known place of confinement. The Report and Recommendation was ultimately returned to the Clerk of Court on January 15, 2008, marked “RTS [Return to Sender].”

Local Rule 41.3W, in pertinent part, provides:

The failure of an attorney or *pro se* litigant to keep the Court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to the Court for the reason of an incorrect address and no correction is made to the address for a period of 30 days.

In the present case, the Magistrate Judge’s Report and Recommendation was returned to the Clerk of Court on January 15, 2008. Diggs failed to advise the Court of his new address by February 14, 2008. The thirty day period within which Diggs was required to notify the Court of his new

address has expired. Accordingly, the Court finds that Diggs has failed to prosecute his case. The Court declines to adopt the Magistrate Judge's Report and Recommendation. Diggs's Complaint is hereby DISMISSED WITHOUT PREJUDICE pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and Local Rule 41.3W for failure to prosecute.

Monroe, Louisiana, this 25 day of February, 2008.



ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE